

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

| | |
|--|---|
| IN RE: MIDAMERICAN ENERGY COMPANY | DOCKET NOS. RFU-98-11 RFU-98-22 RFU-99-2 WRU-00-21-156 (WRU-98-9-156) |
|--|---|

ORDER GRANTING INTERVENTION AND REQUEST FOR RECONSIDERATION

(Issued June 2, 2000)

On February 28, 2000, the Utilities Board (Board) issued an order in Docket No. RFU-98-11, et al., requiring that MidAmerican Energy Company (MidAmerican) file a plan to refund to its customers certain refunds MidAmerican has received from one of its interstate natural gas pipeline suppliers, Northern Natural Gas Company (Northern). Northern, in turn, received the refunds from natural gas producers who sold gas to Northern during 1983-1988 and collected a Kansas ad valorem tax on those sales. That tax is now in the process of being refunded by those producers for ultimate refund to the retail customers who overpaid while the tax was being collected.

On March 17, 2000, MidAmerican Energy Company (MidAmerican) applied for rehearing and stay of the Board's order, arguing that the refunds were not yet sufficiently certain to make a customer refund appropriate. On March 28, 2000, the Board issued an order denying the stay and directed MidAmerican to file a refund

plan with the expectation that the plan "will provide more detailed information regarding the possible effect of requiring a refund at this time."

On April 3, 2000, MidAmerican made a filing comprised of three parts: (1) an updated status report regarding the uncertainty surrounding the ultimate disposition of Kansas ad valorem tax refund amounts, (2) an application for a waiver requesting authorization to retain the refund in a special refund retention account until November 1, 2000, identified as Docket No. WRU-00-21-156, and (3) proposed refund plan factors.

MidAmerican requested a waiver of 199 IAC 19.10(8)"a" in order to retain the refunds in a special refund retention account until November 1, 2000. The application for waiver is necessary since the combined refunds exceed five dollars for the average residential customer. MidAmerican also asked the Board for permission to include the refunds in its Annual Purchased Gas Adjustment (PGA) Reconciliation.

On April 14, 2000, the Board granted MidAmerican's application for rehearing and approved the waiver requested in Docket No. WRU-00-21-156 to permit MidAmerican to continue to retain the Kansas ad valorem tax refunds in a special refund retention account until November 1, 2000, at which time the balance could be included in MidAmerican's PGA reconciliation.

On May 4, 2000, the Iowa Industrial Intervenors (III) filed a motion to intervene in these consolidated dockets and an application for rehearing and reconsideration.

The gist of III's position is as follows: The members of III are presently transportation customers of MidAmerican and Northern who procure their own natural gas supplies. They were sales customers during the time period the Kansas ad valorem taxes were collected and therefore overpaid for their gas purchases in that time frame. Because they are not currently sales customers, they will not share in a refund of the overcollections if the refund is made through the PGA reconciliation. III is aware that it seeks to intervene in this proceeding at a late date, but points out that III had no reason to believe it had an interest in this matter that required separate representation until the PGA refund mechanism was proposed. III asks that the Board modify its order of April 14, 2000, to permit current transportation customers who are former sales customers to share in the refund.

On May 17, 2000, MidAmerican filed a reply to III's application. MidAmerican does not dispute that all sales customers during the Kansas ad valorem refund period may be entitled to share in the refund. MidAmerican's concern is with the remoteness of the refund period and the difficulty, if not impossibility, of determining the appropriate amount to refund to each customer. MidAmerican notes that the applicable Board rule, 199 IAC 19.10(8)"d," provides that supplier refunds are normally to be made on the basis of the amount of system gas consumed, but also provides that the utility may use data from the last available 12-month period if use of the actual period generating the refund is impractical. Because of the length of time that has passed since the 1983-1988 time period, MidAmerican believes it would be

impractical to use actual sales data to calculate the refunds. Instead, MidAmerican proposes to use throughput data for the calendar year 1999 in conjunction with this refund. MidAmerican further proposes to determine the portion of the refund attributable to transporters by reference to the 1999 throughput attributable to transporters that received gas from Northern delivery points. The balance of the refund would be returned to sales customers through the purchased gas reconciliation.

On May 18, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response to the III application and stated the Board should consider requiring refunds to transport customers consistent with their usage as sales customers during all or part of the period 1983 through 1988, with the remainder of the refund to be flowed through the PGA to current sales customers.

III has not yet responded to MidAmerican's proposal.

The Board finds it appropriate to grant III's petition to intervene and to grant reconsideration for purposes of resolving the remaining issues. The parties appear to agree that current transportation customers who were sales customers during the ad valorem tax collection period should be permitted to share in the refunds. The Board agrees with that principle. The remaining issue is how that sharing should be effected. Consumer Advocate suggests use of sales information from the 1983 to 1988 period; MidAmerican suggests that information may no longer be available on a reasonable basis and offers a surrogate method based on more recent data. III has

not yet expressed an opinion regarding an appropriate sharing mechanism. The Board will require that the parties file information and argument with the Board to permit resolution of this issue. Accordingly, MidAmerican will be directed to file a report showing the calculations it proposes and describing the results. Consumer Advocate and III will then have an opportunity to comment on the MidAmerican report; MidAmerican will have an opportunity to respond; and the Board will then either set the matter for hearing (if necessary to resolve fact issues), or issue an order directing the manner in which the refunds should be made.

IT IS THEREFORE ORDERED:

1. The application for intervention filed by Iowa Industrial Intervenors on May 4, 2000, is granted.
2. The application for reconsideration filed by Iowa Industrial Intervenors on May 4, 2000, is granted to the extent described in the body of this order.
3. The following procedural schedule is adopted:
 - a. MidAmerican shall file with the Board, on or before June 23, 2000, a report showing, in detail, its proposed method for allocating a portion of the Kansas ad valorem tax refund to current transportation customers that were sales customers during the time associated with the refund of the ad valorem tax.
 - b. On or before July 14, 2000, Consumer Advocate and Iowa Industrial Intervenors may file comments on the MidAmerican report.

c. On or before July 28, 2000, MidAmerican may file responsive
comments to the comments filed by the other parties.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 2nd day of June, 2000.